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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,101	07/25/2005	Hirobumi Toyoda	ARF-084US	9108
21254 7590 01/02/2009 MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC 8321 OLD COURTHOUSE ROAD SUITE 200 VIENNA, VA 22182-3817				
			EXAMINER WONG, JEFFREY KEITH	
			ART UNIT 3714	PAPER NUMBER
			MAIL DATE 01/02/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/528,101

Applicant(s)

TOYODA, HIROBUMI

Examiner

Jeffrey K. Wong

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Status of the Application

1. This Office-Action acknowledges the Response to Election/Restriction filed on 8/11/2008 and is a response to said Response.
2. This Office-Action acknowledges that the Applicant elects the invention of Species I (Claims 1-4, 6-12)

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 8, 9, 11, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ronin et al., US 6,083,105(Ronin) in view of Hughes-Watts, US 2004/0061285 (Hughes-Watts)

Regarding Claims 1, 8, 11, 12.

Ronin discloses a gaming machine comprising:

a roulette game (In this case, the roulette wheel can be viewed as a rotating lottery board that has a plurality of holes/slots located by the peripheral of the wheel in which the roulette ball can land)) which is provided with a plurality of lottery holes (elem 134) wherein a total circumferential length of the plurality of lottery boards is equalized(Fig 2B) and a face portion on which a lottery ball can roll (Abstract. The roulette wheel is

viewed as the face portion in which a lottery ball can roll);
a game result determination device for determining a game result on a basis of identification information associated with any one of the plurality of lottery holes receiving the lottery ball (Col 6, lines 3-9. The sensor, elem 144, is viewed as the determination device) under a condition that the lottery ball enters said any one of the plurality of lottery holes(elem 134), each of the plurality of lottery holes of said lottery boards being associated with identification information for determining a lottery result(It is well known in the art that roulette has lottery boards associated with identification information).

Ronin failed to disclose of there being a plurality of lottery boards.

However, Hughes-Watts, teaches of an apparatus with a plurality of roulette wheels (Fig 1. In this case, the plurality of roulette wheels can be viewed as a plurality of lottery boards) as a means of shortening the period of the time taken for the number of roulette wheel spin results to become known (Para 5).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the plurality of roulette wheels of Hughes-Watts' invention with Ronin's invention because it would shorten the period of time taken for the results of the roulette spin to become known. For instance, in the case where there is one roulette wheel in use, it would usually take a minute or two before the results of a roulette wheel is determined. However, if there are two wheels, wheel one and wheel two, it would take a shorter period of time because, after the results of wheel one have been determined, the roulette ball for the wheel two would already be spinning around.

By the time the second round of wagers are placed, the ball would be near the end of its spin cycle which would result in faster results. To further elaborate, as wagers for the second round are tallied for wheel two, a ball for wheel one would already now be in play where a third round of wagers would be placed.

Regarding Claims 2, 9.

Ronin and Hughes-Watts, disclose the gaming machine according to claim 1, Ronin also discloses wherein said game result determination device comprises: an identification information selecting device for selecting the identification information being composed of a plurality of symbol codes(In traditional games of roulette, the symbols used are numbers), each of which is in association with the lottery hole receiving the lottery ball under a condition that the lottery ball enters said any one of the plurality lottery holes(It is well known in the art that roulette has lottery holes associated with identification information. In this case, the identification information would be viewed as the symbols, such as numbers, that correspond to their respective lottery boards), and a game control device for determining the game result on a basis of the identification information selected by the identification information selecting device(Abstract. The cpu, elem 202, is in charge of the operation of the mechanisms in accordance with the program of the system.) wherein the plurality of lottery holes of the lottery board is allocated with respective symbol codes that constitute the identification information. (It is well known in the art that roulette has identification information. In this

case, the identification information would be viewed as the symbols, such as numbers, that correspond to their respective lottery boards)

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ronin et al., US 6,083,105(Ronin) and Hughes-Watts, US PUB 2004/0061285 (Hughes-Watts) in view of Bromley, US 5,827,119 (Bromley)

Regarding Claim 3.

Ronin and Hughes-Watts discloses the claimed invention according to Claim 1 but failed to teach of a tilting control device for tilting the cabinet, wherein the lottery ball rolls over the plurality of lottery boards as the cabinet is tilted by the tilting control device.

However, Bromley discloses of a rotatable playing surface game (Abstract) that has a housing (elem 20) with levellable supports (elem 24) surrounding the base (elem 22) for leveling the housing (elem 20). These levellable supports can be viewed as the titling control device that are used to tilt the roulette wheel while the roulette while is in play. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the levellable supports of Bromley's teachings with Ronin's and Hughe-Watts' invention in order to level the housing.

6. Claim 4, 6, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ronin et al., US 6,083,105(Ronin) and Hughes-Watts, US PUB 2004/0061285

(Hughes-Watts) as applied to Claim 1 and in further view of Bromley, US 5,827,119 (Bromley) and Levy, US 4,337,945 (Levy)

Regarding Claim 4

Ronin and Hughes-Watts failed to explicitly disclose a rotation control device for controlling the plurality of lottery boards such that the plurality of lottery boards are rotated clockwise or counter-clockwise (Ronin only talked about a drive mechanism for rotating the wheel that can be disengaged but did not explicitly disclose of its direction, Abstract); a first lottery ball throwing device for throwing a lottery ball substantially in a same direction as a direction vector that the plurality of lottery boards rotate; a second lottery ball throwing device for throwing a lottery ball in an opposite direction to the first lottery ball throwing direction (Ronin only discloses of an electromagnetic mechanism for launching the ball but did not disclose of its direction, Abstract); a lottery ball throwing control device for controlling the lottery ball to be thrown from either the first lottery ball throwing device or the second lottery ball throwing device; and a lottery ball detecting device for detecting whether the lottery ball is thrown from either the first lottery ball throwing device or the second lottery ball throwing device, wherein the rotation control device has a function to determine the rotational direction of the lottery board on a basis of a detection result of the lottery ball detecting device. However, Levy teaches of a roulette gaming apparatus with an automatic ball spinner (elem 11) which can be used for propelling a lottery ball on to the roulette table such that the lottery ball would spin on the roulette wheel either clockwise or counter-clockwise (Col 1, lines 61-65. In this case, while it is not explicitly stated that the ball is

propelled clockwise or counter-clockwise on to the roulette table, it is clearly obvious that the ball exiting the automatic ball spinner, elem 11, from either elem 18 or elem 17 would travel in such a manner on the wheel respectively) wherein the dealer would spin the wheel as soon as the ball leaves the automatic ball spinner (Col 2, lines 4-6. In this case, the dealer can be viewed as the lottery ball detecting device as well as the rotation control device) as means of prevent collusions between the dealer and a player (Col 1, lines 26-33).

It should be noted that Bromley teaches how the gaming industry has gone great length to make games such as roulette fully automatic such that it no longer requires an attendant (Col 4, lines 12-46). In this case, it would be obvious to try and fully automate the combination of Ronin's and Levy's combination in order to make it fully automatic and no longer requiring an attendant. If that were the case, it would be obvious that the implementation of a ball detecting device and wheel rotation device would be required to replace the need for an attendant.

Regarding Claim 6.

Ronin, Hughes-Watts, Levy and Bromley disclose gaming machine according to claim 4. Levy teaches wherein the rotation control device has a function to rotate the lottery board clockwise when the lottery ball detecting device detects that the lottery ball is thrown from the first lottery ball throwing device, or rotate the lottery board counterclockwise when the lottery ball detecting device detects that the lottery ball is thrown from the second lottery ball throwing device(Col 2, lines 4-6. In this case, the

attendant can be viewed as the rotation control device. When the ball leaves from elem 17, the attendant would be expected to rotate the wheel clockwise. When the ball leaves from elem 18, the attendant would be expected to rotate the wheel counter-clockwise.).

Regarding Claim 7

Ronin discloses a gaming machine comprising:

a roulette game (In this case, the roulette wheel can be viewed as a lottery board) each of which is provided with a plurality of lottery holes (elem 134) and a face portion on which a lottery ball can roll (Abstract. The roulette wheel is viewed as the face portion in which a lottery ball can roll); a game result determination device for determining a game result on a basis of identification information associated with any one of the plurality of lottery holes receiving the lottery ball (Col 6, lines 3-9. The sensor, elem 144, is viewed as the determination device) under a condition that the lottery ball enters said any one of the plurality of lottery holes(elem 134), each of the plurality of lottery holes being associated with identification information for determining a lottery result(It is well known in the art that roulette has identification information).

Ronin failed to disclose a rotational driving device for rotating the lottery board;
a first lottery ball throwing device for throwing the lottery ball substantially in a same direction as a direction vector that the lottery board rotates;
a second lottery ball throwing device for throwing the lottery ball in an opposite direction to the direction of the first lottery ball throwing device; and

a throwing ball detecting device for detecting whether the lottery ball is thrown from within the first lottery ball throwing device or the second lottery ball throwing device, wherein the program determines a game result on a basis of a plurality of lottery holes receiving lottery balls as a lottery ball enters any one of the plurality of lottery holes, and wherein the program executes: throwing the lottery ball from either the first lottery ball throwing device or the second lottery ball throwing device, determining a rotational direction of the lottery board on a basis of a detection result of the lottery ball detecting device, controlling the rotation control device to rotate the lottery board in a direction determined in the determining the rotational direction.

Ronin also failed to disclose of there being a plurality of lottery boards.

However, Hughes-Watts, teaches of an apparatus with a plurality of roulette wheels (Fig 1. In this case, the plurality of roulette wheels can be viewed as a plurality of lottery boards) as a means of shortening the period of the time taken for the number of roulette wheel spin results to become known (Para 5).

Also, Levy teaches of a roulette gaming apparatus with an automatic ball spinner (elem 11) which can be used for propelling a lottery ball on to the roulette table such that the lottery ball would spin on the roulette wheel either clockwise or counter-clockwise (Col 1, lines 61-65. In this case, while it is not explicitly stated that the ball is propelled clockwise or counter-clockwise on to the roulette table, it is clearly obvious that the ball exiting the automatic ball spinner, elem 11, from either elem 18 or elem 17 would travel in such a manner on the wheel respectively) wherein the dealer would spin the wheel as soon as the ball leaves the automatic ball spinner (Col 2, lines 4-6. In this case, the

dealer can be viewed as the lottery ball detecting device as well as the rotation control device) as means of prevent collusions between the dealer and a player (Col 1, lines 26-33).

It should be noted that Bromley teaches how the gaming industry has gone great length to make games such as roulette fully automatic such that it no longer requires an attendant (Col 4, lines 12-46). In this case, it would be obvious to try and fully automate the combination of Ronin's and Levy's combination in order to make it fully automatic and no longer requiring an attendant. If that were the case, it would be obvious that the implementation of a ball detecting device and wheel rotation device as well as the software means for such implementation would be required to replace the need for an attendant.

7. Claim 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ronin et al., US 6,083,105(Ronin) and Hughes-Watts, US 2004/0061285 (Hughes-Watts) as applied to Claim 8, and in further view of McKown, US 3,756,101 (McKown) Regarding Claim 10.

Ronin and Huges-Watts discloses the claimed invention according to Claim 8 but failed to disclose a swinging device for tilting the cabinet as the lottery balls roll over the plurality of lottery boards.

However, McKown discloses of a support apparatus wherein each leg, elem 21, has a swivel leveling jack, elem 23, at their bottoms to permit leveling of the idler stand in the event that the floor or ground is not level.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the swivel leveling jack teaching of McKown's invention as means of leveling an apparatus in the event that the floor or ground is not level as taught by McKown. In this case, a swivel can be viewed as a swing device.

Response to Arguments

8. Applicant's arguments filed 8/11/2008 have been fully considered but they are not persuasive.

9. Applicant alleges:

"Applicant respectfully traverses the Election of Species Requirement for the following reasons. The Examiner's search with regard to both Species I and Species II would be coextensive, such that there would be no additional searching burden placed on the PTO in the examination of both Species I and Species II in the same application. Further, even assuming arguendo that a slight, additional searching burden was imposed upon the PTO if both Species I and Species II were examined in the same application, the burden to the Applicant would be much greater in terms of financial considerations, since a divisional application is likely to be filed. Divisional applications are costly, with the present filing, issue, and maintenance fees alone being \$5,000. Thus, from a financial standpoint, Applicant's costs associated with filing and prosecuting a divisional application are believed to outweigh any burden on the Examiner should Species I and Species II be examined in the same application. For the above reasons, Applicant respectfully requests that the Examiner withdraw the

Election of Species Requirement, and examine both Species I and Species II in the same application.”

The Examiner disagrees. While the Examiner does sympathize with the financial burden that would occur should the applicants wish to file a divisional application of this application, the financial burden is not viewed as a proper argument as there is no financial obligation where the applicant has to or must file a divisional. More so, the reason for the election of species is that there is indeed two patently distinct species being claimed. One invention is disclosing determining the rotational direction of the lottery board based on the result of the lottery ball detecting device while the other discloses selectively throwing the lottery ball from either the first lottery ball throwing device or the second lottery ball throwing device based on the direction of the rotation of the lottery board. Basically, one invention is disclosing of detecting the rotation of the lottery board while another invention is disclosing the detecting of a ball. The Examiner believes that means of detecting the rotation of a board is quite different than means of detecting a lottery ball. As stated previously, there is an examination and search burden for these patentably distinct species due to their mutually exclusive characteristics. The species require a different field of search (e.g., searching different classes/subclasses or electronic resources, or employing different search queries); and/or the prior art applicable to one species would not likely be applicable to another species; and/or the species are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey K. Wong whose telephone number is (571)270-3003. The examiner can normally be reached on M-Th 8:30am-7:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hotaling can be reached on (571)272-4437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JKW

/Scott E. Jones/
Primary Examiner, Art Unit 3714